

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING, HISTORIC PRESERVATION OFFICE
1100 4th Street, SW, Suite E 650, Washington, DC 20024**

IN THE MATTER OF:)	
)	
)	HPA No. 12-044
Engine Company No. 28)	
Application for Permit for Alteration)	
3522 Connecticut Avenue, NW)	
Square 2068, Lot 809)	

DECISION AND ORDER

The District of Columbia Department of Fire and Emergency Services (“FEMS”) seeks a permit to widen the doors on the front of Engine Company No. 28, 3522 Connecticut Avenue, NW, a firehouse contributing to the Cleveland Park Historic District, on the ground that it is a project of special merit according to Historic Landmark and Historic District Protection Act of 1978, D.C. Code, § 6-1101, *et seq.* (“the Act”). Based upon the evidence in the entire record of this proceeding, including all written and oral testimony submitted at the administrative hearing, and taking into consideration the applicable law and governing regulations, as well as the recommendations of the Historic Preservation Review Board, and for the reasons specified herein, the permit will be granted for historic preservation review purposes.¹

The firehouse at issue here opened in December 1916. It was designed in a classically influenced Beaux Arts Style, and the masonry façade is dominated by two rounded arched vehicle doorways for fire trucks and emergency equipment. The doorways are ten feet wide and ten feet tall. As fire fighting and medical emergency vehicles have grown larger with technological changes, FEMS has found it ever harder to use the firehouse due to the small size of the vehicle doorways. FEMS began planning for a renovation of Engine Company No. 28 in 2004, but the project stalled. In 2010, the United States Environmental Protection Agency issued new regulations for emissions from diesel vehicles, which has triggered the most recent increase in the size of fire trucks. FEMS revised its plans and elements of those are the subject of the current request. The delay has left the firehouse out of service since fall, 2010.

Plans for the rehabilitation have been prepared by Zivic and Hurdle Architects and the project is being managed by the District of Columbia Department of General Services (“DGS”). The plans for rehabilitation are extensive and include a complete demolition and reconstruction of the interior (not subject to the Act), as well as a new roof. The Commission of Fine Arts has recommended approval of a permit. Two elements have raised significant issues under the

¹ This opinion will constitute the findings of fact and conclusions of law required for decision in a contested case under the Administrative Procedure Act, D.C. Code § 2-509(e).

Historic Landmark and Historic District Protection Act. First, FEMS proposed to widen the two vehicle doors to twelve feet. Second, it also proposed to add security screens on all windows. The Historic Preservation Review Board heard the matter at its regular meeting on December 15, 2011. The Board adopted the Staff Report, which recommended that many elements of the project be approved or delegated to the staff. However, the report advised the Board that “the following work is incompatible with the character of the property and the historic district: the widening of the vehicle-door openings; the installation of the security screens on the second story and attic windows except where immediately accessible from the adjacent Walgreen’s roof ...” Remarks by Board members at the hearing stressed that such conspicuous changes to the exterior of a contributing building could not be considered to be consistent with the purposes of the Act, the sole issue before the Board, but might be permitted by the Mayor’s Agent if issuance should be found “necessary in the public interest” under D.C. Code § 6-1105(f).

FEMS promptly filed an application to the Mayor’s Agent seeking a permit to widen the doors and install window security screens as necessary in the public interest. Written submissions supporting the application were provided by Kenneth B. Ellerbe, FEMS Chief, Paul A. Quander, Jr., Deputy Mayor for Public Safety and Justice, and Brian J. Hanlon, Interim Director, Department of General Services. A hearing was held on February 24, 2012 and conducted according to the contested case procedures of the Administrative Procedure Act. D.C. Code § 2-509. Testifying in support of the application were Battalion Chief David Foust and members of the development team, including Allam Al-Alami and Gbolahan Aganga Williams from DGS and Anwar Iqbal from Zivic & Hurdle Architects. Tim Dennee from the Historic Preservation Office, the author of the Staff Report approved by the Board, also testified. Neither the relevant Advisory Neighborhood Commission nor any neighbors submitted comments or appeared either to support or oppose the application, although Susan Taylor, President of the Cleveland Park Citizens Association, testified about the concern of neighborhood residents about delay in returning the firehouse to service in the neighborhood.

The application in this case seeks to alter the exterior of a building that contributes to the character of a historic district. D.C. Code § 6-1102(a). Such a permit can be granted only if the Mayor’s Agent finds that issuance is necessary in the public interest or that failure to issue the permit will result in an unreasonable economic hardship. *Id.* § 6-1105(f). The claim is that granting the permit is necessary in the public interest, which means such a grant is (1) “consistent with the purposes” of the Act or (2) “necessary to allow the construction of a project of special merit.” *Id.* § 6-1102(a)(10). Special merit is defined as “a plan or building having significant benefits to the District of Columbia or to the community by virtue of exemplary architecture, specific features of land planning, or social or other benefits having a high priority for community services.” *Id.* § 6-1102(a)(11). The Act is explicit in declaring that “[i]n considering a claim of special merit, substantial rehabilitation or new construction for operational needs of a public safety facility shall constitute a public interest having significantly higher priority than that of historic preservation.” *Id.* § 6-1108.1(g). The definition of public safety facility includes a “fire station.” *Id.* § 6-1102(10A).

The written submissions and the oral testimony narrowed the issues. The written submission from Mr. Hanlon of DGS stated that the project team “agreed to limit the new security screens to the First Floor and a few Second Floor openings.” All the witnesses concurred that FEMS had

agreed to abide by the recommendation in the Staff Report approved by the Board concerning the windows, and Mr. Dennee affirmed that such a commitment to the terms of the Board's recommendation made the window rehabilitations consistent with the purposes of the Act. The Mayor's Agent agrees and finds that consequently there is no need to determine further if the window rehabilitation is necessary in the public interest.

Most of the hearing thus was directed at whether widening the vehicle doorways was necessary in the public interest. The plan envisions widening the doorways to twelve feet, which entails demolishing the stonework along and above the doorways and reconstructing it at the new dimensions, resulting in flattened arches and a narrower masonry separation between the doorways. The rest of the façade will be retained, although the widened doorways will not be in as harmonious a relation to them. The witnesses agreed on the following facts: the need for larger fire fighting vehicles is driven by technological changes enhancing safety and limiting pollution. All fire vehicles produced domestically are at least as wide as the eight-foot vehicles FEMS proposes to use. These vehicles also feature side mirrors that are each one foot wide; even if the mirrors could be made retractable, they would need to be extended when the trucks are backing into the firehouse. European fire fighting vehicle designs, although narrower, have smaller pumping capacities, based on different approaches to fighting fires; the HPO concedes that it is too much to ask FEMS to change its fundamental approach to fire and emergency services in order to avoid making the proposed structural changes to historic firehouses. Emergency health services vehicles also now are built on eight-foot chassis. FEMS has looked at numerous alternative sites in the neighborhood for a new firehouse that can provide the same response time for local emergencies, but has been unsuccessful. FEMS has a strong cultural connection to its historic firehouses and prefers to remain in them and adapt them to current needs. The parties agreed that there is historic preservation value in adapting the historic firehouses to continue serving their intended use, at least up to some point at which alterations to the exterior would become too damaging to the historic features.

All parties agreed that long-term planning to find alternative sites or means of access for historic firehouses has the potential to avoid the necessity for making the types of changes to the character-defining elements to the front of the building proposed here. At the same time, the recent changes in technology driven by emission standards required changes in design plans in this case. The need for completing renovations at Engine Company 28 and at other firehouses makes further delay in this matter problematic.

Accordingly, the Mayor's Agent concludes that issuance of the permit in this matter is necessary to permit a project of special merit. As noted above, D.C. Code § 6-1108.1(g) makes rehabilitation of a firehouse for operational needs a project of special merit *per se*. The Mayor's Agent still must find that the proposed renovation is "necessary" to accomplish that important goal. Normally, the Mayor's Agent would engage in this inquiry by balancing the special merits of the project against the historic value of the building. *Committee of 100 on the Federal City v. District of Columbia Department of Consumer & Regulatory Affairs*, 571 A.2d 195, 203 (D.C. 1990). Section 6-1108.1(g), however, also expressly declares that operational rehabilitation of a firehouse has a "significantly higher priority" than historic preservation. Thus, all that seems left for decision is whether the proposed rehabilitation of this firehouse seeks to accomplish genuine

operational improvements and that the alteration of its historic features is no greater than necessary to accomplish those improvements.

Here, there is no doubt that recent federally-mandated technological changes in emergency vehicles require wider doors for safe and speedy vehicle exit and entrance. FEMS has been unable to locate another workable site that can provide emergency services as promptly to the local area. There is no access to Engine Company 28 other than through the front doors. The widening of the doors does not alter more features than necessary to accommodate the wider vehicles. The design reasonably limits damage to the historic features of Engine 28. FEMS and DGS have committed to employing and supervising construction contractors skilled in stonework and capable of protecting the remaining historic elements of the façade. D.C. Code § 6-1105(h) requires the Mayor's Agent to find that a party proposing an alteration of special merit demonstrates the ability to complete the project. Here, the extensive architectural plans, appropriated public funds in the current budget, and the commitments of DGS to high quality workmanship provide ample assurances that the renovation will be carried out promptly as proposed. Finally, there is a legitimate need to move forward swiftly with the renovation to restore efficient emergency services to the neighborhood.

ACCORDINGLY, it is ordered that the application for a permit to alter Engine Co. 28 as specified in the Pre-Hearing Submission of FEMS and as described in this Decision should be **GRANTED** for historic preservation purposes.

Date: April 3, 2012.



J. Peter Byrne
Mayor's Agent Hearing Officer



Confirmed
Harriet Tregoning
Director, Office of Planning

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Decision and Order was served this 4th day of April, 2012 by mailing a copy of the same *via* electronic mail or first-class, United States Postal Service mail, postage prepaid, to the following:

David Foust
Battalion Chief
District of Columbia Department of Fire and Emergency Medical Services
david.foust@dc.gov

Allam Al-Alami
Executive Program Manager
District of Columbia Department of General Services
allam.al-alami@dc.gov

Advisory Neighborhood Commission 3C
office@anc3c.org

Judy Hubbard
Assistant Director of Constituent Services
For Ward 3 Councilmember Mary Cheh
jhubbard@dccouncil.us

David J. Maloney
District of Columbia State Historic Preservation Officer
david.maloney@dc.gov

Catherine Buell, Esq.
Chair
Historic Preservation Review Board
cbuell220@yahoo.com

Janette Anderson
Associate Director for Technical Services
Georgetown University Law Center Library
anderjan@law.georgetown.edu



Certifying Officer